

## **Ask the Observer**

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**Question:** My mother filed for my brother and me to join her in the United States, however, she passed away before we received our visas to move to the U.S. My brother has since gotten citizenship--can he now continue the filing and how long will it take? Also, can I apply for a visitor's visa while I am waiting?

**Answer:** The immigrant visa process involves several steps, which we hope to clarify in our answer to your question. In general, to apply for an immigrant visa, a foreign citizen must be sponsored by a U.S. citizen relative(s), U.S. lawful permanent resident, or by a prospective employer. As you mentioned, the foreign citizen must also be the beneficiary of a filed and approved petition (Form I-130). Therefore, the first step is for a U.S. citizen relative, U.S. lawful permanent resident, or a prospective employer to file a petition for you. Petitions are generally filed in the United States and should be submitted to the United States Citizenship and Immigration Service (USCIS) field office near you—a list of USCIS field offices is available on their website at: [www.uscis.gov](http://www.uscis.gov).

### **Family Sponsored Petitions**

There are several different types or classifications of relationships for family or immediate relative sponsored petitions. In your case, upon your mother's death, your petition for citizenship discontinued; if your brother was interested in filing for you to join him, he would need to start the petition process again. This time, instead of being petitioned for as the child of a U.S. citizen or lawful permanent resident, you would be petitioned for as the sibling of a U.S. citizen; note that your brother will need to have obtained his citizenship before he can file as lawful permanent residents are not eligible to file petitions for their siblings. USCIS provides the following chart of relationships for which you can file a petition under U.S. immigration laws:

**1. Immediate Relative of a U.S. Citizen:** You are an immediate relative of a U.S. citizen if you are:

- The child (unmarried and under 21 years old) of a U.S. citizen;

- The spouse (husband or wife) of a U.S. citizen; or
- The parent of a U.S. citizen (if the U.S. citizen is 21 years or older).

**2. Family Member of a U.S. Citizen in a Preference Category:** You are a family member of a U.S. citizen in a preference category if you are:

- An unmarried son or daughter (21 years or older) of a U.S. citizen;
- A married son or daughter (any age) of a U.S. citizen; or
- A sibling (brother or sister) of a U.S. citizen.

**3. Family member of a permanent resident in a preference category:** You are a family member of a permanent resident in a preference category if you are:

- The spouse of a permanent resident;
- The child (unmarried and under 21 years old) of permanent resident; or
- The unmarried son or daughter (21 years or older) of a permanent resident

Please keep in mind that there are limits on the number of immigrant visas that are issued each year in each of these categories. This is one of the ways in which immigrant visas are very different from non-immigrant visas: immigrant visas have numerical limits, while there is no limit on the number of non-immigrant or visitor's visas, which we can issue for temporary travel to the United States.

You will be assigned a 'priority date' based on when your application was filed and your petition approved.

**When is My Priority Date?**

As of March 2010, the Department of State is scheduling and conducting visa interviews for the following groups with the following priority (or petition) dates:

- A. Unmarried sons and daughters of U.S. citizens—June 22, 2004

- B. Spouses and children of U.S. permanent residents—April 1, 2006
- C. Unmarried sons or daughters of U.S. permanent residents—February 1, 2002
- D. Married sons and daughters of U.S. citizens—May 22, 2001
- E. Brothers and sisters of adult U.S. citizens—January 15, 2000

This information is contained in a visa bulletin that is regularly updated by the Department of State, based on the number of available immigrant visas. You can access the visa bulletin at any time to check the current processing dates:

[http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html).

### **What Happens After My Petition Is Approved?**

After the immigrant petition has been approved, such as in your case, the next step is preliminary processing for an immigrant visa. The Department of State's National Visa Center (NVC) works to collect documents and information necessary for U.S. embassies to process your visa application. NVC works to collect affidavits of support—documentation of who will support you financially when you move to the United States—as well as other required documents, like birth certificate(s), marriage or divorce certificate(s), or police reports. Lastly, NVC can provide you information on the required medical exam or panel physician visit and your visa interview.

Once your file is complete, **and** once you have reached your priority date, the file is passed to the U.S. embassy (or consulate) in your home country so that you can arrange an interview for your immigrant visa. Your interview will not take place until you are eligible, meaning that your priority date has been reached in our processing queue and there are additional immigrant visa numbers remaining.

### **What About My Interview?**

Once your priority date is reached, you will be contacted to schedule an interview with the U.S. embassy or consulate in your home country. You will also be advised of what information and documentation to bring to your interview and how to schedule the required

medical exam. Please note that if you do not bring the necessary information, our office will work with you to reschedule a time for you to return, though processing goes much faster if you are fully prepared.

During your interview, the officer will review your file to ensure that you meet all the requirements to receive an immigrant visa. In some instances, you may be required to file additional paperwork for your application or provide more information about your sponsor in the United States. Our goal is to assist you in going through this process and, in these cases, our officers will advise you of the next steps to complete your application. However, our mission is also to ensure that we issue immigrant visas based on legitimate relationships between foreign citizens and U.S. citizens or permanent residents. For this reason, some cases may require additional processing after the embassy interview so that we can evaluate or review your situation.

For more information on immigrant visas, you can visit the U.S. Embassy Kingston website, [http://kingston.usembassy.gov/immigrant\\_visas.html](http://kingston.usembassy.gov/immigrant_visas.html), or the Department of State website, [http://travel.state.gov/visa/immigrants/immigrants\\_1340.html](http://travel.state.gov/visa/immigrants/immigrants_1340.html).

### **Obtaining a Visitor's Visa**

During the processing of your immigrant visa, you may apply for a nonimmigrant, visitor's visa for short trips to the United States. As with all applicants, you will be required to demonstrate that you do not intend to immigrate to the United States after entering the country on a visitor's visa, especially since you already have a pending petition to move to the U.S. We encourage individuals, who have pending immigrant visa applications to be forthcoming about their pending petition, their reasons for wanting to make short trips to the U.S. while they are waiting, and the ways that they remain connected to Jamaica at this time. Ultimately, the decision to issue any visa is based on the level of confidence that the interviewing officer has in the applicant in regards to their purpose of travel and intent to return home thereafter.